



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

August 13, 1993

Mr. Jeff D. Hankins  
Legal Assistant  
Texas Department of Insurance  
Regulated Lines Section  
Legal Services 110-1A  
P.O. Box 149104  
Austin, Texas 78714-9104

OR93-531

Dear Mr. Hankins:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 20785.

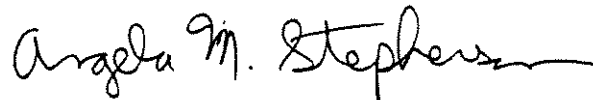
The Texas Department of Insurance (the "department") received an open records request for certain records that you contend may be withheld from the public pursuant to section 3(a)(3) of the Open Records Act. To secure the protection of section 3(a)(3), a governmental body must demonstrate that requested information "relates" to a pending or reasonably anticipated judicial or quasi-judicial proceeding. Open Records Decision No. 551 (1990). In this instance you have made the requisite showing that the requested information relates to reasonably anticipated litigation for purposes of section 3(a)(3); most of the requested records may therefore be withheld.

In reaching this conclusion, however, we assume that the opposing party to the anticipated litigation has not previously had access to the records at issue; absent special circumstances, once information has been obtained by all parties to the litigation, *e.g.*, through discovery or otherwise, no section 3(a)(3) interest exists with respect to that information. Open Records Decision Nos. 349, 320 (1982). If the opposing parties in the anticipated litigation have seen or had access to any of the information in these records, there would be no justification for now withholding that information from the requestor pursuant to section 3(a)(3). Some of the documents you have submitted for our review consist of correspondence between the department and one of the opposing parties to the anticipated litigation. These documents may not be withheld from public disclosure pursuant to section 3(a)(3) or any other exception under the Open Records Act. We also

note that the applicability of section 3(a)(3) ends once the litigation has been concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982).

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink that reads "Angela M. Stepherson". The signature is fluid and cursive, with a long horizontal stroke at the end.

Angela M. Stepherson  
Assistant Attorney General  
Open Government Section

AMS/jcc

Ref.: ID# 20785  
ID# 20855

Enclosures: Submitted documents

cc: Ms. Janna P. King  
Gardere & Wynne  
3000 Thanksgiving Tower  
1601 Elm Street  
Dallas, Texas 75201-4761  
(w/o enclosures)